

Atlantic Richfield Company

Cynthia Kezos
Strategy Manager

RECEIVED

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SUBORDINATE
DIRECTOR'S OFFICE

September 13, 2010

Mr. Kevin Shade
USEPA REGION 6
1445 Ross Avenue, Suite 1200
Mail Code: 6SF
Dallas, TX 75202-2733

Re: Jackpile-Paguate Mine Site
Initial Response to EPA 104(e) Request and Request for Extension of Time

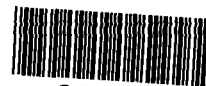
Dear Mr. Shade:

We are proceeding with an internal search of the Atlantic Richfield Company ("Atlantic Richfield") records to prepare responses to EPA's Section 104(e) Request for Information (May 26, 2010) concerning the referenced Mine Site. Our review of internal document archives indicates a significant number of responsive documents may have been preserved. We are proceeding with arrangements to retrieve and review the archives for production of responsive, non-privileged documents to EPA.

We appreciate EPA's cooperation in extending the period for preparation of Atlantic Richfield's Response through September 24, 2010. Given the level of effort required to complete the review and prepare a complete written response, however, Atlantic Richfield requests a further extension of forty-five (45) days through November 8, 2010. We will use our best efforts to complete and submit a written response within this further extended timeframe, and keep EPA apprised of our progress as the extended deadline approaches.

On July 30, 2010, via my electronic mail to you, Atlantic Richfield provided EPA with a copy of the December 1986 "Agreement to Terminate Leases" between the Pueblo of Laguna and The Anaconda Minerals Company ("Anaconda"), then a division of Atlantic Richfield Company. For your convenience, I enclose a copy of that Agreement with this letter. Referring to Paragraph 7 of the Agreement, Anaconda agreed to provide certain information regarding the Mine Site that had been developed by Anaconda or its consultants. The Agreement describes in general terms the information that was subsequently transferred to the Pueblo of Laguna.

As a second enclosure to this letter, I am providing a series of three letters that further describe the transfer of Mine Site files and records to the Pueblo of Laguna. The letters are provided to EPA without waiver of any attorney client or attorney work-product



privilege that may be asserted related to these documents and their contents. The first letter, dated February 4, 1987, was authored by Eugene Tidball, an attorney for Atlantic Richfield Company, to B. Reid Haltom, who, from the description in the letter, was an attorney involved in preparing the transactional documents for transfer of the Mine Site to the Pueblo of Laguna. I provide this letter to EPA as it includes a listing of the files that Anaconda would provide to the Pueblo of Laguna under Paragraph 7 of the Agreement. The second letter in the series confirms the initial list provided by Anaconda and requests that additional information be transferred to the Pueblo of Laguna. The third letter in the series, dated September 15, 1987 and authored by Christopher Sanchez, confirms that the files, maps and other information requested by the Pueblo of Laguna were available for transfer. Mr. Sanchez verbally confirmed to me that transfer of the information was later completed as required by the Agreement.

Referring to this series of correspondence and in particular to the detailed descriptions of the Reclamation Files described in the Tidball letter, the Pueblo of Laguna received many records, including documents, maps and other information that are responsive to EPA's Requests. By way of example, and without limitation:


- Request No. 2 – Locations of areas mined within the site and location of specific borings. Mine-related documents appear within the "Underground" category of records in the Tidball letter. A 1976 "mining plan" is listed with the Reclamation Plans, and per the Sanchez letter, a "final mine map", borehole logs and aerial photos were produced to the Pueblo of Laguna. In addition, the Reclamation Map File category (Tidball letter) includes: (a) Computer Generated Drill Hole Maps and other maps showing drillhole and mine locations; (b) air photos of the mine area; and (c) underground mine information for the Woodrow Mine. "Drill Hole Reclamation" is another category of Reclamation Files transferred to the Pueblo of Laguna that would contain information responsive to Question 2.
- Request No. 5 – Laboratory data/information relating to water quality and soils. Information responsive to EPA's Request No. 5 is included records described under the following Reclamation Files categories: (a) Environmental Procedures; (b) Environmental Monitoring Studies; (c) Hydrology; (d) Reclamation Plans; and (e) Soils.
- Request No. 7 – Groundwater and Mine Dewatering records/data. Documents within the Geotechnical and Hydrology categories would include information responsive to Request No. 7.
- Request No. 8 – Information describing "waste by-products" of mine operations. Documents specific to "waste dumps" at the Mine Site are described in the following Reclamation Files categories: (a) Geotechnical; (b) Reclamation Plans; and (c) Soils.

- Question 9 – Information relating to waste disposal activities. See discussion of Question 8 above.
- Question 10 – Information related to waste storage at the Mine Site. See discussion of Question 8 above and reference to "waste dumps."
- Question 11 – Reports relating to reclamation and cleanup at the Mine Site. Information responsive to Request No. 11 is most broadly covered in the transfer of files / records to the Pueblo of Laguna. See Reclamation Files categories: (a) Materials Movement; (b) Reclamation Plans; (c) Revegetation; and (d) Soils.

These are examples only of records and information in the Pueblo's custody that are responsive to EPA's Request for Information. Atlantic Richfield will produce records that may be duplicates of those that were transferred to the Pueblo of Laguna, if located in the course of the document review. In the interim, Atlantic Richfield wanted EPA to be aware of the scope and substance of information that may be obtained from the Pueblo of Laguna files.

Thank you for EPA's continued cooperation in providing a further extension of time. Atlantic Richfield will use its best efforts to complete the review of records from the Atlantic Richfield archives and prepare a complete written response to EPA's March 26, 2010 Request for Information. Please call me at your convenience with any questions related to this letter.

Respectfully,



Cindy Kezos
Strategy Manager

Enclosures

cc: Sheila D'Cruz, BP Legal (Belcan)
Duronda Smith
Robert Trull
Pamela Travis, Office of Regional Counsel

ENCLOSURE 1

AGREEMENT TO TERMINATE LEASES

THIS AGREEMENT, effective upon approval of the Secretary of the Interior, is between THE PUEBLO OF LAGUNA, an Indian Tribe organized pursuant to the Act of June 18, 1934, Ch. 216, (48 Stat. 984), residing on the Laguna Indian Reservation in New Mexico, ("The Pueblo") and ANACONDA MINERALS COMPANY, a unit of Arco Coal Company, a division of Atlantic Richfield Company, a Delaware corporation, ("Anaconda").

WHEREAS, the parties have entered into various mining leases and mining has taken place under said leases on the Laguna Indian Reservation; and

WHEREAS, commercial mining activities have ceased, and the parties desire to enter into an agreement to establish a final and binding legal basis for reclamation of the Jackpile-Paguate Mine Site ("Mine") located on lands of The Pueblo.

NOW, THEREFORE, the parties agree as follows:

1. Anaconda and The Pueblo entered into the following leases:

- (a) "Jackpile" Lease (Lease Number 1) signed March 27, 1952 and initially covering 799.09 acres, amended on September 21, 1954, November 8, 1956, and December 23, 1960, to bring the lease acreage to approximately 4,988.46 acres;
- (b) Lease Number 4, signed July 24, 1963 covering 2,560 acres; and
- (c) Lease Number 8, signed July 6, 1976 covering 320 acres.

To the extent that these leases have not terminated, this Agreement constitutes an agreement to terminate the leases upon the effective date of the Agreement.

2. In consideration for the release of Anaconda from all responsibility and liability for reclamation of the Mine, for performing other environmental remedial measures relating to the Mine, and for all other obligations arising under the leases, Anaconda will:

- (a) After execution and approval of this Agreement, pay to The Pueblo in the manner specified by

the Secretary of the Interior or his designee, Forty-three Million, Six Hundred Thousand Dollars (\$43,600,000), in five (5) equal cash payments, with the first payment being due and payable within ten (10) days of the effective date of this Agreement, and the final four (4) payments being due and payable on consecutive annual anniversaries of the effective date of this Agreement. To the extent required such payments shall be used for reclamation and related purposes as prescribed by the Record of Decision issued jointly by the Bureau of Indian Affairs and the Bureau of Land Management, and pursuant to the management plan and agreement between The Pueblo and the Secretary of the Interior governing the performance of reclamation by The Pueblo.

- (b) Within thirty (30) days of the effective date of this Agreement, donate to The Pueblo in an "as is" condition all structures and facilities presently at the Mine, including but not limited to the railroad spur, fences and water, sewage, and power systems for support services to these structures and facilities. Anaconda and The Pueblo have jointly inspected and inventoried these structures, and are fully aware of the condition of such structures and facilities. The Pueblo agrees to accept and assume responsibility for all such structures and facilities in such condition.

3. In consideration for the monies to be paid by Anaconda under Paragraph 2 of this Agreement, Anaconda will be deemed to have met all of its reclamation and other environmental obligations relating to the Mine, and The Pueblo, with the approval of the Secretary of the Interior, hereby releases Anaconda from all responsibility and liability for reclamation of the Mine, for performing other environmental remedial measures relating to the Mine, and for all other obligations arising under the leases, including all bonding requirements, and will:

- (a) Assume full and complete responsibility and liability under all applicable laws, including any obligations imposed by Anaconda's leases with The Pueblo, for:
 - (i) the cleanup, reclamation or other environmental remedial action at the Mine; and

- (ii) conducting all other related and necessary activities in a manner acceptable to, or required by governmental agencies with jurisdiction over reclamation and other related environmental programs, and which is otherwise consistent and in compliance with all applicable environmental laws and regulations; and
 - (iii) obtaining requisite approval for such activities from the appropriate governmental authorities.
- (b) Indemnify and hold Anaconda harmless from, and reimburse Anaconda and its officers, directors or agents for any amounts paid or expenses incurred, including attorneys' fees and expenses, because of any claim, liability or obligation
- (i) related to cleanup and reclamation of the Mine, or
 - (ii) asserted under any applicable law or regulation, and relating to The Pueblo's obligation hereunder, including without limitation effects due to the generation, treatment, storage or disposal of hazardous substances or wastes, or toxic materials, or related activities, by Anaconda on The Pueblo lands including, but not limited to, any liability or obligation which exists or arises under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA).
- (c) Release Anaconda from any and all claims by The Pueblo, and refrain from filing any claims or actions on behalf of The Pueblo, for damages to The Pueblo's natural resources, or for recovery for the costs of cleanup and reclamation under CERCLA or other applicable law, including damages caused by blasting at the Mine.

4. Anaconda shall notify The Pueblo of any claim made or suit filed for which it seeks indemnification within twenty (20) days of service of process or thirty (30) days from receipt of a claim. The Pueblo shall have the right to participate in the defense of any such claim or suit, in its discretion, through its own representative counsel.

5. (a) In order to provide Anaconda an effective means of securing judicial or other relief in the event of a breach by The Pueblo of its obligations under this Agreement, The Pueblo hereby expressly waives its sovereign immunity as to any claims or actions brought by Anaconda under this Agreement, and consents to be sued in a Federal Court of competent jurisdiction, provided, however, that The Pueblo's liability shall not exceed Ten Million Dollars (\$10,000,000) and the term of the indemnification agreement shall be for ten (10) years from the effective date of this Agreement;

(b) The Pueblo agrees to make available up to Ten Million Dollars (\$10,000,000) for a period of ten (10) years out of funds held in trust for The Pueblo by the Secretary of the Interior, or held by The Pueblo directly, for the purpose of satisfying any award or judgment obtained by Anaconda pursuant to this Agreement;

(c) Anaconda is responsible for claims for bodily injury, illness or death of persons or for loss or destruction of or damage to personal property arising from Anaconda's activities at the Mine prior to the effective date of this Agreement.

6. (a) Anaconda represents that:

(i) Atlantic Richfield Company is a corporation duly incorporated in the State of Delaware and has full corporate power to execute this Agreement and perform the obligations contained herein on behalf of itself and Anaconda.

(ii) To the best of its knowledge and belief, there are no materials at the Mine that are presently classified by federal laws as either hazardous substances or wastes, or toxic materials.

(b) The Pueblo represents that it is organized under the Indian Reorganization Act of 1934, and has full power under federal law and under its Revised Constitution to perform its obligations under this Agreement, all necessary action by the Tribal Council having been taken. The persons executing this Agreement on behalf of The Pueblo are vested with the power and authority to bind The Pueblo. The Pueblo agrees that any entity established to carry out reclamation at the Mine which is

controlled by or related to The Pueblo will assume all of the responsibilities and liabilities of The Pueblo under this Agreement.

- (c) The Secretary of the Interior represents that it is vested with full power and authority under the laws of the United States of America to approve this Agreement.

7. During the sixty (60) day period following the execution of this Agreement, Anaconda agrees to provide to The Pueblo all information developed by Anaconda or its consultants including but not limited to:

- (a) mining plans, resource information and other data relating to the Mine; and
- (b) all technical and engineering reports, studies or documents relating to the reclamation project.

Anaconda does not warrant the accuracy of such data and shall not be liable for any claim by The Pueblo arising from The Pueblo's reliance on such data.

8. The Pueblo agrees that any residual damage to resources remaining after mining under the leases constitutes an irreversable and irretrievable commitment of natural resources.

9. The obligations of Anaconda under this Agreement are guaranteed by Atlantic Richfield Company, a Delaware corporation.

10. The date that this Agreement is fully executed and approved shall be its effective date. If this Agreement is not approved by the Secretary of the Interior by December 31, 1986, it shall be null and void.

11. Neither party to this Agreement may assign its obligations under the Agreement without the consent of the other party; any such assignee shall agree in writing to be bound by the terms of this Agreement.

12. This Agreement represents the entire agreement of the parties and no amendment hereof shall be valid unless reduced to writing and signed by all parties hereto.

13. This Agreement shall enure to the benefit of, and bind all successors and assigns of the parties hereto.

Chester J. Sanandri
Governor, The Pueblo of Laguna

Attest: *[Signature]*

Secretary

Date: 12/12/86

Mike R. Benson
President, Anaconda Minerals Company
Senior Vice President
Atlantic Richfield Company

Attest: *[Signature]*

Assistant Secretary

Date: 12/12/86

APPROVAL BY SECRETARY
OF THE INTERIOR

The Secretary of the Interior hereby approves this Agreement to Terminate Leases, and further releases Anaconda from any claims of the Secretary of the Interior or The Pueblo arising under the leases, or for damages to The Pueblo's natural resources, and further agrees to refrain from asserting against Anaconda on behalf of the Secretary of the Interior or The Pueblo any claims or actions under the leases, or for damage to The Pueblo's natural resources, or from otherwise attempting to obligate Anaconda to engage in cleanup, reclamation or other environmental remedial action at the Mine.

APPROVED:
Secretary of the Interior

By *[Signature]*

Ross Swimmer

Assistant Secretary of the
Interior

Pursuant to Authority Delegated
by

Date: 12/12/86

1014

RESOLUTION OF THE TRIBAL COUNCIL
PUEBLO OF LAGUNA

RE: EXECUTION OF AGREEMENT BETWEEN THE PUEBLO OF LAGUNA AND THE ANACONDA MINERALS COMPANY TO TERMINATE LEASES.

RESOLUTION No. 66-86

WHEREAS, the Anaconda Minerals Company, a unit of ARCO Coal Company, a division of Atlantic Richfield Company, a Delaware corporation, has ceased mining activities on the Pueblo of Laguna Reservation and wishes to terminate said leases; and

WHEREAS, the Pueblo of Laguna has negotiated an agreement with the Anaconda Minerals company whereby said leases are to be terminated upon the payment of funds to the Pueblo of Laguna and the acceptance by the Pueblo of responsibility for reclamation of the leased premises; and

WHEREAS, in arms-length negotiation and in good faith, the Pueblo of Laguna and the Anaconda Minerals Company have agreed upon the payment of \$43.6 million by Anaconda to the Pueblo of Laguna to be used for reclamation of the Jackpile-Paguate Uranium Mine contingent upon Secretarial approval; and

WHEREAS, the Bureau of Land Management has calculated that the cost of the reclamation activities as required in the Record of Decision to be issued by the Bureau of Indian Affairs and the Bureau of Land Management is approximately \$34.7 million; and

WHEREAS, it appears that there are adequate funds to reclaim the Jackpile-Paguate Mine in accordance with the Pueblo of Laguna's previously stated plans.

NOW, THEREFORE, BE IT RESOLVED, by the Tribal Council of the Pueblo of Laguna that the Governor of the Pueblo of Laguna is hereby authorized to execute the Agreement to Terminate Leases attached hereto on behalf of the Pueblo of Laguna.

Chester J. Starnand
Governor

Robert D. Lujan
Councilman

Shirley W. Shiesee
Councilman

ATTEST:

Patricia A. Bida
Tribal Secretary

CERTIFICATION

The foregoing resolution was enacted upon by the Council of the Pueblo of Laguna on the 2nd day of December, 1986, by a vote 19 for, 1 opposed,

1 abstaining, at a duly called meeting at which a quorum of the Pueblo Council was present.

Chester J. Fernandez
Governor

ATTEST:

Harold C. ...
Tribal Secretary

TARGET SHEET

SITE NAME: JACKPILE-PAGUATE URANIUM MINE

CERCLIS I.D.: NMN000607033

TITLE OF DOC.: [ATLANTIC RICHFIELD COMPANY RESPONSE
TO 104(E) REQUEST FOR INFORMATION]

DATE OF DOC.: 09/13/2010

NO. OF PGS. THIS TARGET SHEET REPLACES: 13

SDMS #: 899208 **KEYWORD:**

CONFIDENTIAL ? ☒ **MISSING PAGES ?** ☐

ALTERN. MEDIA ? ☐ **CROSS REFERENCE ?** ☒

LAB DOCUMENT ? ☐ **LAB NAME:**

ASC./BOX #: ☐

CASE #: **SDG #:**

**ENCLOSURE 2 WAS REMOVED DUE TO
CONFIDENTIAL BUSINESS INFORMATION.**

COMMENTS : ENCLOSURE 2 IS DOC ID 9155623.